

REMARKS/ARGUMENTS

Favorable reconsideration of this application in light of the following discussion is respectfully requested.

Claims 1-8 are pending in this case. No new matter is added.

By way of summary, the outstanding Official Action presents the following issues: Claims 1-8 stand rejected under 35 U.S.C. § 103 as being unpatentable over Nakayama et al. (U.S. Patent 7,117,253, hereinafter Nakayama) in view of Muraoka (U.S. Patent Publication 2005/0034150).

Rejections under 35 U.S.C. § 103

The Official Action has rejected Claims 1-8 under 35 U.S.C. § 103 as being unpatentable over the combination of Nakayama and Muraoka. Applicant respectfully traverses the rejection.

Applicant points out that the present case is a national stage application of a PCT filing of September 14, 2004. As such, the Muraoka reference is 102(e) art based upon its publication date of February 10, 2005, which was after the filing date of the PCT. Therefore, the obviousness rejection is deficient under 35 U.S.C. § 103(c) as explained below.

Applicant submits that the present application and the Muraoka reference were, at the time the invention was made, owned by, or subject to an obligation of assignment to Sony Corporation. Accordingly, application of the Muraoka reference in this obviousness rejection is improper.

As the only rejection of record relies on Muraoka, Applicant respectfully submits that this rejection is traversed as Muraoka may not be applied as a basis for supporting a *prima facie* case of obviousness as outlined by 35 U.S.C. § 103(c).

Accordingly, Applicant respectfully requests that the rejection of Claims 1-8 under 35 U.S.C. § 103 be withdrawn.

Conclusion

Since Applicant has not amended the claims in response to any rejection on the merits, a further rejection of these claims based on newly cited prior art in the next communication **cannot properly be considered a Final Office Action.**

Accordingly, the outstanding rejection is traversed and the pending claims are believed to be in condition for formal allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,


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